

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

ROBERT LEE BARNES,

Petitioner,

v.

ACTION NO. 2:13cv281

HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 and the Respondent's Motion to Dismiss the Petition. In his Petition, the pro se Petitioner alleges violations of his constitutional rights in relation to his convictions for first-degree murder, statutory burglary, attempted rape, abduction, and aggravated sexual battery after he plead guilty on September 1, 2009 in the Circuit Court for the City of Portsmouth, which resulted in a forty-two (42) year sentence of incarceration in the Virginia state penitentiary.

The Petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed on December 2, 2013 recommends dismissal of

the Petition with prejudice. The parties were advised of their right to file written objections to the Report and Recommendation. On December 20, 2013, the Court received the Petitioner's objections. The Respondent has not responded to the Petitioner's objections, and the time to do so has expired.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made de novo findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed December 2, 2013, ECF No. 9. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 4, be **GRANTED**, and that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondent.

The Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability

pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for the Respondent.

It is so ORDERED.

/s/  
Rebecca Beach Smith  
Chief  
United States District Judge

*RB*

REBECCA BEACH SMITH  
CHIEF UNITED STATES DISTRICT JUDGE

January 16, 2014